

STATE OCCUPATIONAL THERAPY LICENSURE BOARD

Bureau of Occupational Licenses

700 West State Street, P.O. Box 83720

Boise, ID 83720-0063

Board Meeting Minutes of 12/9/2016

BOARD MEMBERS PRESENT: Corwin Sutherin - Chair
Kristin Guidry
Diann Davis-Martin
Caren Deangelis
Michael Spero – joined by phone

BUREAU STAFF: Tana Cory, Bureau Chief
Dawn Hall, Administrative Support Manager
Lori Peel, Investigative Unit Manager
Mitchell Toryanski, Legal Counsel
Eric Nelson, Board Prosecutor

OTHERS PRESENT: Mel Henderson, President-Elect,
Idaho Occupational Therapy Association
Angela Zaugg
Kari Thompson, Vice President,
Idaho Occupational Therapy Association

The meeting was called to order at 9:00 AM MST by Corwin Sutherin.

APPROVAL OF MINUTES

Ms. Guidry made a motion to revise the minutes of 9/9/2016 on page 2 under Telehealth as follows: “Ms. Guidry made a motion to add the topic of the definition of supervision related to telehealth” It was seconded by Ms. Davis-Martin. Ms. Davis-Martin made a motion to approve the minutes of 10/19/2016. It was seconded by Ms. Guidry. Motion carried.

LEGISLATIVE REPORT

Ms. Cory gave the legislative report. She reminded the Board of the deadlines for submission of any proposed legislative changes.

FINANCIAL REPORT

Ms. Hall gave the financial report, which indicated that the Board had a cash balance of \$137,427.05 as of 11/30/2016.

DISCIPLINE

Mr. Nelson presented a memorandum regarding case number OCT-2017-1. After discussion, the Board gave recommendations for appropriate discipline.

Mr. Spero joined the meeting via phone at 9:20 AM MST.

INVESTIGATIVE REPORT

Ms. Peel gave the investigative report, which is linked above.

OLD BUSINESS

To Do List – The Board reviewed the to do list and no action was taken.

REPORT ON TELEHEALTH / DEFINITION OF SUPERVISION

Ms. Guidry discussed the findings of the subcommittee after its discussion of the definition of supervision under telehealth. She said the subcommittee also chose to discuss the entirety of the Board's existing rules regarding supervision. Ms. Guidry said she excused herself from that discussion since the Board had not authorized her to review the current supervision rules. She also had a discussion with Mr. Toryanski and he reviewed the telehealth supervision rules that the Board of Psychologists recently proposed in Rules 350 and 601 with her. Ms. Guidry and Mr. Toryanski reviewed those proposed rules with the Board.

Mr. Sutherin asked the audience for comments regarding this topic. Mr. Henderson asked the Board to work collaboratively with the Idaho Occupational Therapy Association (IOTA) in writing any proposed rules regarding supervision under telehealth. Mr. Henderson said that the minutes of the 9/9/2016 meeting were confusing since he thought the Board did not initially limit the topic of supervision only to telehealth but focused on the current supervision rules. Mr. Henderson said that the subcommittee did not include regulatory language but worked with staff and used other resources from the American Occupational Therapy Association (AOTA), the National Board for Certification in Occupational Therapy (NBCOT), the Idaho Telehealth Access Act, and existing OT rules of Idaho, Alaska, Connecticut, Illinois and other states in order to write a proposal and move forward to address possible telehealth rules and revise the supervision rules. Mr. Henderson reviewed the subcommittee's proposal with the Board.

Ms. Davis-Martin asked Mr. Henderson if an OT would have to have an initial face-to-face or a telehealth evaluation with a client under the proposed telehealth rules. Mr. Henderson said it would be up to the OT, working with the supervised OTA, to make that decision and any future supervision decisions in accordance with the practitioner's skill levels.

Ms. DeAngelis asked Mr. Henderson if he could be more specific regarding the language in the supervision rules he would like to see changed. Mr. Henderson said

that he agreed with the AOTA that supervision ratios need to be eliminated since the ratios limit practitioners who have their own clinic with several OTAs in that clinic. He said that the limiting definitions under the supervision rule for skill levels need to be broadened. He also suggested that the Board work closely with the AOTA and NBCOT to redefine the supervision rules. Mr. Henderson said the level of supervision required by a graduate OTA should be corrected on the Limited Permit they receive since the written rule states that they must have close supervision but the Limited Permit states they must have direct supervision. Ms. Cory reviewed the rules regarding entry level and graduate OTAs who receive a Limited Permit.

Ms. Zaugg said that there is a Facebook page for Occupational Therapists. She said a certified occupational therapy assistant (COTA) recently posted a comment regarding the requirement of recordkeeping for a COTA under close supervision. She said there were many comments then posted on Facebook that were not consistent with the rules which showed the lack of clarity in the rules.

Mr. Henderson proposed that the subcommittee continue and expand its scope of work to address the framework of the supervision rules under the direction of the Board. He said he receives many phone calls from practitioners regarding the supervision rules, and he does not believe we are protecting the public if there is this much confusion among practitioners.

The Board thanked Mr. Henderson for his work and comments.

Mr. Sutherin said he agreed that the subcommittee should continue and expand its scope of work to clarify the supervision rules and work on the recordkeeping rules and the telehealth rules. Ms. Cory reviewed the 9/9/16 minutes and the initial assignment designated Ms. Guidry to work with Mr. Toryanski and consult with interested parties regarding rules for supervision related to telehealth. Ms. Cory said the subcommittee needed to be restructured in such a way that it would be easier to bring the subcommittee's suggestions back to the Board.

Ms. Davis-Martin made a motion to create a subcommittee to include Ms. Guidry and Ms. DeAngelis and have them work with Mr. Toryanski and members of the public in order to review the supervision rules and other rules and topics and provide recommendations to the Board at its next meeting. It was seconded by Ms. DeAngelis. Motion carried.

Ms. DeAngelis made a motion to amend the agenda to have Mr. Sutherin review the existing limited permit regarding the language about "direct supervision" or "close supervision" of the graduate OT or graduate OTA who would receive the limited permit. It was not on the original agenda because it came up in the course of the discussion with the IOTA. It was seconded by Ms. Davis-Martin. Motion carried. Ms. DeAngelis made a motion to have Ms. Hall rewrite the language on the limited permit to reflect the language in the rule regarding supervision of the graduate OT or graduate OTA and have Mr. Sutherin review it. It was seconded by Ms. Davis. Ms. Hall rewrote the language and brought the draft of the limited permit back to the Board. Ms. DeAngelis made a motion to approve the rewritten limited permit and have Ms. Hall update it. It was seconded by Ms. Guidry. Motion carried.

NEW BUSINESS

PUBLIC COMMENT

The public commented during the discussions regarding telehealth and the definition of supervision under Old Business. No additional comments were offered.

CORRESPONDENCE – NBCOT: PROFESSIONAL LICENSING COALITION UPDATE

The Board reviewed the email and no action was taken.

CORRESPONDENCE – AOTA OFFICIAL DOCUMENTS SUPPLEMENT

The Board reviewed the information and no action was taken.

CORRESPONDENCE – ACOTE ACCREDITATION ACTIONS

The Board reviewed the memorandum and no action was taken.

CORRESPONDENCE – OT QUESTION: RECORDKEEPING

The Board discussed the email regarding the requirement of recordkeeping within the rules and whether daily treatment notes with a co-signature and documentation of collaboration and supervision would be sufficient to comply with the rules. Ms. Davis-Martin made a motion to have Ms. Toncray respond and direct the practitioner to follow Rule 011 regarding all supervision requirements and in particular Rule 011.04 regarding recordkeeping, and let the OT know that the suggested daily treatment notes would not be in compliance with HIPAA rules. It was seconded by Ms. DeAngelis. Motion carried.

CORRESPONDENCE – AOTA MEETING INVITATION

The Board discussed the invitation with counsel, and asked Ms. Toncray to respond by thanking the AOTA for the invitation and to graciously decline, because this is an association issue and not a public protection issue.

CORRESPONDENCE – OT REQUEST TO REVIEW ENTIRE SUPERVISION RULE

The Board agreed that the supervision rule was addressed during Public Comment.

CORRESPONDENCE – AOTA LETTER REGARDING ACCEPTANCE OF NBCOT NAVIGATOR ASSESSMENTS FOR CONTINUING EDUCATION

The Board reviewed the email and letter received on 12/8/2016. Mr. Henderson said that both AOTA and IOTA oppose the “blanket use” of the NBCOT Navigator

assessments as acceptable continuing education. He said that some states have accepted a limited use of the CE units when OTs and OTAs choose to use them as continuing education courses to complete the CE requirement for renewal of licensure. Mr. Henderson suggested that the Board consider revising the continuing education requirement time period for OTs and OTAs from two years to one year and asked the Board address this at its next meeting. Ms. Cory reviewed the recent change made to the rules for continuing education for OTs and OTAs. Ms. Davis-Martin made a motion to discuss the AOTA letter further at its next meeting. It was seconded by Ms. Guidry. Motion carried.

REVIEW CE RULES

Ms. DeAngelis made a motion to discuss the CE rules at its next meeting. It was seconded by Ms. Guidry. Motion carried.

NBCOT: CONTINUING COMPETENCY

The Board reviewed the document provided and no action was taken.

NEXT MEETING was scheduled for March 10, 2017 at 9:30 AM MST.

ADJOURNMENT

Ms. DeAngelis made a motion to adjourn the meeting at 11:30 AM MST. It was seconded by Ms. Davis-Martin. Motion carried.

Corwin Sutherin, Chair

Kristin Guidry

Caren Deangelis

Diann Davis-Martin

Michael Spero

Tana Cory, Bureau Chief